

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	RM 11355
Petition for Rulemaking)	
To Amend Rule Section 22.901(b))	
to Extend Analog Sunset Date)	
)	

Comments of United States Cellular Corporation

United States Cellular Corporation ("USCC") hereby files its comments on the "Petition for Rulemaking" ("Petition") of the Alarm Industry Communications Committee and ADT Security Services, Inc. (collectively "Alarm Petitioners").¹ USCC opposes the Petition and respectfully urges the FCC to maintain the existing February 18, 2008 "sunset" date for the obligation of cellular carriers to provide analog service.²

I. The Purpose of the Five Year Transition Period Has been Served.

Since the nineteen eighties, the cellular telephone industry has been engaged in a gradual and irreversible shift from analog to digital technology, a transformation indisputably in the public interest. Digital technology is far more spectrum efficient than analog, allowing for large capacity gains using the same amount of spectrum. Digital communications are impervious to "scanner" eavesdropping and are thus far more secure than old fashioned analog radio communications. And lastly, with respect to handset-based solutions, "enhanced 911" location finding capability is only possible with digital formats.³

¹ See Public Notice, "Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Extend Cellular Analog Sunset Date," RM 11355, DA 06-2559, released December 20, 2006.

² See Section 22.901(b) of the FCC's Rules.

³ Pursuant to Section 20.18(g)(i)(v) of the FCC's Rules all cellular carriers were required to achieve 95 percent penetration of (digital) location capable handsets.

The FCC, recognizing and approving those developments, adopted rules in 2002 which would permit cellular carriers to go "all digital" in the format of their choosing.⁴ At that time, the FCC forthrightly concluded that "the analog requirement should be removed" and would accordingly "sunset" as wireless carriers had requested.⁵ However, owing to transition issues, with the main one involving the need to develop hearing aid compatible digital handsets, the FCC put off the effective date of the analog sunset for five years, until February 18, 2008. The five year period was linked explicitly to the digital handset problem and was only extendable if that problem was not solved:

"We conclude that a five year period provides a reasonable time frame for the development of solutions to hearing aid compatibility issues. ... Because we are reserving the right to extend the sunset period in the event that solutions to hearing aid compatibility problems are unsatisfactory, the industry has an incentive to develop digital solutions to the access problem."⁶

During the next five years, carriers were to be required to:

"allot sufficient system resources such that the quality of AMPS [i.e. analog capability] provided, in terms of geographic coverage and traffic capacity is fully adequate to satisfy the concurrent need for AMPS availability."⁷

The cellular industry and manufacturers have since solved the digital handset problem and made such handsets available to hearing impaired customers in accordance with Section 20.18 of the FCC's Rules. Thus under the criteria set forth in the Analog Sunset Order, there is no basis for an extension of time.

Also, in considering this extension request, it is important to take account of the comprehensive nature of the public interest finding in the Analog Sunset Order which supported

⁴ Year 2000 Biennial Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services, WT Docket No. 01-100, Report and Order, 17 FCC Rcd. 18401 (2002) ("Analog Sunset Order").

⁵ Ibid., ¶8.

⁶ Ibid., ¶¶29.

⁷ Section 22.901(b)(2) of the FCC's Rules.

abolition of the analog requirements. The FCC found that the analog requirement was no longer needed to foster wireless competition or to guarantee customer access to reasonably priced equipment.⁸ The FCC concluded that roaming was no longer dependent on the analog requirement and that the operations of small and regional carriers would not be disrupted by its repeal.⁹

Lastly, and most important to consideration of the issues now before the FCC, the Commission found that the possible impact on analog "telematics" providers of an end to analog service did not:

"constitute sufficient basis to warrant the indefinite imposition of an outdated technical standard."¹⁰

Moreover, the FCC concluded that the five year transition period would be sufficient to "mitigate any significant impacts that might affect telematics providers."¹¹ The FCC drew a similar conclusion with respect to possible harm to regional cellular carriers from an end to the analog requirement.¹²

The message of the Analog Sunset Order was thus very clear. The public interest would be served by the transition to digital cellular service. However, the need to develop hearing aid compatible digital handsets necessitated a lengthy transition period, set at five years, which would be extendable only if that problem was not solved during the transition. Other objections to an end to the analog requirement were not sufficiently serious to support its continuation and would, in any case, be dealt with, to the extent they were reasonable, by the provision of the five year transition period.

⁸ Analog Sunset Order, ¶¶ 11-13.

⁹ Ibid, ¶¶ 14-16.

¹⁰ Ibid, ¶ 19. See also ¶¶ 18, 20.

¹¹ Ibid, ¶ 20. See also ¶¶ 21-25, 26-31.

¹² Ibid, ¶ 17.

The alarm industry's use of analog technology was not mentioned in the Analog Sunset Order, a failure of advocacy which is the responsibility of Alarm Petitioners and other members of the industry. It cannot now serve as a basis for future delay of the analog sunset.

In any case, however, had they raised those concerns in 2002, the Alarm Petitioners would certainly have received the same treatment as that given the telematics providers, that is, the FCC would have ruled that their concerns, however understandably could not take precedence over the national interest and that they could and should use a generous five year transition period to shift to digital operations.

USCC would note again that the digital handset, telematics and rural carrier problems about which the FCC was concerned in 2002 have essentially been solved by the industry's technological development, aided by the FCC's hearing aid compatibility and E-911 rules. Except for Alarm Petitioners, it is likely that no party will seek an extension of the analog sunset rule. USCC submits that the alarm industry's dereliction of duty should not be a basis for undermining this carefully crafted rule, which already reflects substantial concessions by the wireless industry.

II. The Public Interest Would Not Be Served by Adopting this Proposal.

Apart from the issues of regulatory fairness discussed above, adopting the proposed two year extension would be costly and wasteful for the wireless industry and its millions of customers. The costs to the wireless industry of a two year delay in the analog sunset will run into the hundreds of millions of dollars, owing to having to maintain obsolete analog service. There will also be less quantifiable costs in network inefficiency from underutilized spectrum, consequent channel congestion, increased need for cell splitting, base station construction, etc.

It costs USCC many millions of dollars per year to provide analog service throughout its network. Thus, the direct costs to USCC of a two year extension would be considerable and would require funds which could be far better spent on upgrading its network for the future. Other carriers no doubt will incur comparable costs, depending on their size and present network configuration, an outcome obviously contrary to the public interest.

USCC is cognizant of the situation of analog alarm customers (USCC serves approximately 70,000 analog alarm customers through "roaming/resale" arrangements), and does not wish to see any of those customers placed at risk. However, we believe that a serious attempt between now and February 2008 by the alarm industry at analog to digital conversion and allowing the free market to work after February 2008 offer a better hope for a reasonable outcome than the "one size fits all" regulatory approach the Petition proposes.

The Alarm Petitioners acknowledge (Petition pp. 11-14) that GSM digital alarm radios now exist and that CDMA replacement radios are in the process of development, though they claim that none are yet commercially available.¹³ However Alarm Petitioners also admit that the alarm industry is not now replacing analog alarm radios, because of the market pressure to install new digital radios (Petition, p. 17). This is clearly unacceptable, as it will produce an identical situation two years from now, as digital demand not going to slacken in the interim.

The request for extension also overlooks the potential for more flexible free market solutions to the problem. This analog sunset does not mandate an end to analog service. It only permits it. It may well be that one or more carriers in many markets may be willing to provide analog service after February 2008 in order to serve alarm and other remaining analog customers for some period of time. Allowing the free market to work in this way would be far more

¹³ USCC, a CDMA carrier, understands that there is a CDMA "digital unit" which has been developed while the "interface" for that unit will not be available until later this year. Again, we would note it was the alarm industry's duty to take the lead in developing such products both before and certainly after 2002.

reasonable than requiring all cellular licensees in all markets to provide redundant and largely unused analog capacity for an additional two (or more) years.

If the FCC denies this request the alarm industry will be given the necessary incentives to solve the problem of legacy analog alarm systems, which it is certainly capable of doing, and the free market may be allowed to work after February 2008 to provide any necessary analog service. Failing that, the analog sunset may be indefinitely delayed, contrary to the public interest.

Conclusion

The cellular industry has fulfilled the handset and other requirements placed on it in 2002 with respect to digital service. It would be unfair and contrary to the public interest for the FCC to require an additional two years of analog service by all cellular carriers. Accordingly, we request that the Petition be denied and that the analog sunset take effect as currently required pursuant to Section 22.90(b) of the FCC's Rules.

Respectfully submitted,

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January 19, 2007

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